IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIRST DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NOS : 9684, 10064, 10369,

10379,10466 and 12766 of 2004

WRIT PETITION NO.9684/2004

Between:

B. Rashmi D/o B. Ram Narayana
Minor rep by her Mother & Natural Guardian Smt. B. Padma W/o B. Ram Narayana
R/o Plat No. 501, Sai
Sadan Apartment Balkampet, road, S.R. Nagar, Hyderabad-38

..... PETITIONER

AND

Commissioner and Secretary, Board of Intermediate Education, A.P., Vidya Bhavan, Nampally, Hyderabad

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus, declaring the under valuation of the Intermediate Public Examination March, 2004 English Paper-II of the Petitioner with roll No. 4511726 (Registered No.) as wholly irrelevant and undervalued and contrary to key provided for the respondent itself, thereby violating the principles of natural justice and Article 14 of the Constitution of India and consequently direct the respondent to value the English II Paper of the Petitioner herein accordance with the key and in appropriate Manner, as otherwise the petitioner would suffer grave and irreparable loss.

For the Petitioner: MR.V.HARI HARAN, Advocate

For the Respondent: Sri S. S. PRASAD, SC for Board of Intermediate.

WRIT PETITION NO : 10064 of 2004

Between:

Rahul Jand, s/o Sri Sandeep Jand,
being minor rep., by natural guardian father Sandeep Jand, r/o Chandan Bada Street, Jeypore, Orissa State.

..... PETITIONER

AND

Board of Intermediate Education, Nampally, Hyderabad, represented by its Secretary.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the respondent in imposing the policy of revaluing only unvalued questions in the process of revaluation of the answer scripts of the students who appeared for Intermediate Examination during March, 2004 and applying the same to the answer script of the petitioner with Hall Ticket No.4044742 in respect of Physics-II as illegal, arbitrary and irrational and consequently direct the respondent to get the answer script of the petitioner revalued without reference to the said policy

For the Petitioner: MR.B.ADINARAYANA RAO ,Advocate

For the Respondent : Mr. S.S.PRASAD, SC for Board of Intermediate

KUM.C.SINDHU KUMARI

WRIT PETITION NO : 10369 of 2004

Between:

G. Sindhura S/o. G. Muralidhar,
G. Muralidhar, S/o. G.V.Subba Rao
46 Yeas, Visakhapatnam, Visakhapatnam District.

..... PETITIONER

AND

The Commissioner and Secretary, Board of Intermediate Education,
Nampally, Hyd.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction especially one in the nature of Writ of Mandamus declaring that the action of the respondents in passing Resolution No. 55 dated 19-2-2004 is illegal and irratainare, violation of Article 14 and 16 of the Constitution of India (b) further declare that the respondents are bound to revalue all the answers

written by the Petitioner as was done for the Academic Year 2001-2002 and 2002-2003 in accordance with Resolution No. 50 dated 21-1-2002 .

For the Petitioner:MR.M.SURENDER RAO, Advocate

For the Respondent: GP FOR HIGHER EDUCATION

WRIT PETITION NO : 10379 of 2004

Between:

B. Amitha, D/o. B. Rama Rao,
rep by its Father and Natural Guardian, B. Rama Rao, S/o. Anjaiah, aged 45 years,R/o. Khammam.

..... PETITIONER

AND

The Commissioner and Secretary, Board of Intermediate Education, Nampally, Hyderabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction especially one in the nature of Writ of Mandamus declaring that the action of the respondents in passing Resolution No. 55 dated 19-2-2004 is illegal and irratainare violation of Article 14 and 16 of the Constitution of India (b) further declare that the respondents are bound to revalue all the answers written by the petitioner as was done for the Academic Year 2001-2002 and 2002-2003 in accordance with Resolution No. 50 dated 21-1-2002 and pass such other order or orders.

For the Petitioner:MR.M.SURENDER RAO, Advocate

For the Respondent.: GP FOR HIGHER EDUCATION

WRIT PETITION NO : 10466 of 2004

Between:

Polam Krishna Priya, D/o P.Anil Reddy,
being Minor rep.by her father and natural guardian Sri P.Anil Reddy, S/o Ramachandra Reddy,
aged 50 years, Resident of Pangapahad (V), Hasanparthy Revenue Mandal, Warangal District.

..... PETITIONER

AND

Board of Intermediate Education, Andhra Pradesh, Nampally, Hyderabad,
rep.by its Secretary.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction more particularly one in the nature of Writ of Mandamus declaring the Rules 4 and 5 of Instructions to Examiners Drafted for Revaluation, Intermediate Public Examinations March, 2004 issued by the Board of Intermediate Education, the respondent heren as illegal, arbitrary and improper and consequently direct the respondent to revalue the Chemistry-II paper of the petitioner bearing REg.No.4604471 and award proper marks accordingly.

For the Petitioner: MR.B.NARAYANA REDDY,Advocate

For the Respondent.: MR.S.S.PRASAD, SC for Board of Intermediate.

WRIT PETITION NO : 12766 of 2004

Between:

Sri Garapaty Anshul Rao S/o Sri Narayan rao
H-12, Kakatiya Nagar, Road, No.2, Habshiguda, Hyderabad 5000007, being a Minor, represented
by his father and natural guardian Sri Garapaty Narayan rao

..... PETITIONER

AND

Board of Intermediate Education Andhra Pradesh
Vidya Bhavan , Nampally , Hyderabad 500001 represented by its Secretary,

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly in the nature of a Writ of Mandamus, declaring the Rules bearing Numbers 4 and 5, contained in the Instructions to Examiners Drafted for Revaluation, Intermediate Public Examinations, March-2004 issued by the Board of Intermediate Education i.e., the Respondent herein as illegal, arbitrary and improper and to consequently direct the Respondent to revalue the petitioner's English-II, Maths-II-B, and Chemistry-II papers bearing the Regd. Number 4590766 answer scripts in their entirety and Award appropriate marks after such complete revaluation

For the Petitioner: MR.B.RAVINDRA,Advocate

For the Respondent.: MR.S.SATYANARAYANA PRASAD, SC for Board of Intermediate

The Court made the following :

-

-

-

-

COMMON ORDER:

This batch of writ petitions raise common question of law and arises from almost identical facts and, therefore, can be disposed of by common judgment. In all these writ petitions, the policy of respondent-Intermediate Board not to evaluate answer sheets and to evaluate only such answers, which were not allotted marks and awarded zero marks, is challenged on various grounds.

The relevant facts shorn of details and necessary for the disposal of these cases lie in a narrow compass. The Board of Intermediate Education established under Section 3 of A.P. Intermediate Education Act, 1971 (for short 'the Act' will regulate and supervise the system of intermediate education in the state of Andhra Pradesh and specify the courses of study therefor and matter connected therewith. The Board formulates the scheme for conducting Intermediate examination and to admit candidates to such examination and publish the results therefor including issuing the marks sheets. For the first time during the academic year 2002-2003, the Board has introduced revaluation of answer scripts pursuant to its resolution in 50th meeting with effect from Intermediate Public Examinations held in March, 2002. Since it was felt that there was some practical difficulties in revaluation and heavy criticism on the revaluation introduced by the Board including alleged irregularities, the Board in its meeting held on 20-10-2003 resolved to refer the matter to the Standing Committee on Academic Affairs to study the procedure of revaluation of answer scripts, its merits and demerits and to make its recommendations in this matter. Accordingly, the Standing Committee on Academic Affairs had constituted a 6 Member Committee to study the issue and to make its recommendations with regard to revaluation. The said 6 Member Committee, inter alia, recommended that though the present revaluation provides some relief to the deserving candidates, the system is prone to exploitation to give benefit to un-deserving candidates. The Committee opined that if the facility is to be provided to deserving candidates, appropriate alternative remedies have to be worked out keeping in view the lacuna

in the system, which was prevalent. On the basis of the report of the said 6 Member Committee, the Standing Committee on Academic Affairs examined the whole issue and on 21-01-2004 made its suggestions.

The recommendations of the 6 Member Committee and the Standing Committee on Academic Affairs were placed before the Board in its 55th meeting held on 19-02-2004. Accordingly, the Board resolved to approve the suggestions made by the members of Standing Committee on Academic Affairs in respect of spot valuation and revaluation of answer scripts as under:

1. System of Spot Valuation should be strengthened with clear and precise scheme of valuation. Examiners should be trained atleast for a day before commencement of valuation in two sessions;

2. Scrutinising procedure has to be strengthened;

3. Strict action should be taken against Examiners and Scrutinizers who make mistakes during valuation;

4. Re-valuation should be done by two independent Lecturers and third member should check and reconcile the marks instead of common revaluation by the revaluation Board (3 members);

5. During re-valuation only those answers should be valued: “which are not awarded marks” and “awarded zero marks” for correct answers during sport valuation.

Basing on the resolutions of the Board and its policy relating to revaluation, necessary guidelines and instructions were issued to the examiners drafted for revaluation. Those instructions and guidelines contain the decision and resolutions passed by the Board. The fact of policy decision taken by the Board to revalue only such questions, which are unvalued, which are not awarded and to which zero marks are awarded. In other words, the system of revaluation will allow the students to get their answer scripts revalued will not involve revaluation of such of those answers which were already valued and marks are awarded, which policy is now challenged contending that denying revaluation of the answers where certain marks were awarded has no basis and it is not in tune with the object sought to be achieved in providing revaluation of the answer scripts. Due to erratic valuation done by an irresponsible examiner, the carrier of the petitioners cannot be ruined and the respondents cannot take shelter under un-published policies only to revalue such of the answers which are not awarded marks or awarded zero marks and such policy is highly arbitrary and irrational. In view of erratic policy taken by the Board,

many of the petitioners denied admission in a prestigious institution like BITS, Pilani etc.

In opposition of the same, respondent-Board filed its counter contending that since the said policy was evolved after obtaining the view of the 6 Member Committee and Standing Committee on Academic Affairs, petitioners are not entitled to revaluation of all answers. Petitioners have no vested right to insist for revaluation of answer script except limited revaluation provided under the policy. Revaluation cannot be stretched to that of an appeal or revision against the revaluation done by one of the examiners. The policy was evolved only to mitigate the hardship, if any, caused to such of the students where it is pointed out that no marks were awarded to a particular question or awarded zero marks to correct answer. The same will not prejudicially affect the candidates seeking revaluation, as marks already obtained will be in tact. In the absence of any vested or statutory right to insist revaluation of the entire answer script, writ petitions as such are not maintainable.

Mr.M.Surender Rao, learned counsel for the petitioners in W.P.No.10369 and 10379 of 2004 would contend that having provided a scheme for revaluation of answer scripts, limiting it only to certain questions is violative of Articles 14 and 21 of the Constitution of India. A candidate awarded zero marks is entitled to revaluation, but a candidate who awarded one mark instead of full marks is precluded to avail the benefit of revaluation, which offends Article 14. He also contends that sub-Section (vi) of 9 of the Act confers certain powers on the Board including to conduct examination, to take all steps ancillary thereto and publish result thereof. In exercise of concomitant power the Board of Intermediate Education issued instructions including valuation key, revaluation cannot be restricted and any revaluation should be as per valuation key only.

Mr. B.Adinarayana Rao, learned counsel for the petitioner in W.P.No.10064 of 2004 fair in his submission that the students will not have any right of revaluation, but since the Board itself introduced revaluation and necessary panels are prepared for revaluating the same, curtailing the revaluation only to certain answers is irrational. Petitioner who was a brilliant and secured cent percent marks in the optional in the first year was awarded 47 marks in the physics in the 2nd year. In that process, he was placed second in the wait list of BITS, Pilani and could not get the seat. In view of the same, action of the respondents in not getting the answer script of the

petitioner in physics—II examination valued without any pre-condition is arbitrary, illegal and irrational. He has taken me to the Xerox copies of the answer sheet pages 30 and 31 of Physics paper-II to point out that lesser marks were awarded, and as per the scheme of valuation, some more marks need to be awarded to the candidate. If the said scheme is followed, petitioner will get more marks than awarded for the said answer.

Sri Hariharan, learned counsel for the petitioners contends that on revaluation petitioner in W.P.No.9684 of 2004 awarded three marks more and had taken me to the Xerox copies of the answer sheet and submits that once the Board concedes for revaluation, it cannot be partial, but it should be entire revaluation and if the same is done petitioner will get more marks. To support his contention, he placed reliance on the following judgments:

1. ***KANPUR UNIVERSITY v. SAMIR GUPTA***
2. ***G.S.RAVI KIRAN v. BOARD OF SECONDARY EDUCATION***.

The other counsel adopted the same arguments.

While refuting all the submissions made by the petitioners' counsel, Sri S.S.Prasad, learned Senior Counsel, on the other hand, contends that the reliance placed by the petitioners on the report is only to conduct survey and cannot be read as conclusion. Neither the Board nor the officials are against the students and in their right earnest provided limited revaluation to mitigate the hardship, if any, in the light of the recommendations made by the Committee. Under Section 11 of the Act the Board can appoint one or more Committees for such purposes and such manner and consisting of such members as may be prescribed and can refer the matter to any such Committee for enquiry and report any matter relating to any of the purposes of the Act. The Committee so appointed will advise the Board and which in fact, approved by the Board in its meeting. As the Board took policy decision to evaluate only such answers, which were not allotted marks and awarded zero marks, restrictive revaluation provided cannot be said arbitrary. In the absence of any vested right conferred on the petitioners under the Statute for revaluation, it is not open for them to contend for continuation of revaluation, which was vogue in 2002-2003. Once the Board has got power under the Act and Regulations to formulate the scheme for conducting intermediate public examinations, introducing a particular

scheme is a part of such scheme and the petitioners cannot complain violation of principles of natural justice or promissory estoppel against the Board or legitimate expectation nor can claim papers should be revalued in its entirety. Since all the candidates who have appeared for public examinations conducted in the month of March, 2004 are treated similar and have not been discriminated, simply because petitioners approached the Court are not entitled to selective treatment by the Board. Once the scheme is formulated, Board cannot act contrary to its resolution under the scheme. Even otherwise, petitioners will not be entitled to any revaluation as per the old scheme of revaluation, which was in vogue in 2002-2003. Even otherwise, if the restrictive revaluation is followed the same will not have the effect of revival of old scheme. In support of his submission he relied on the following judgments.

1. ***MAHARASHTRA STATE BOARD OF SECONDARY EDUCATION v. PARITOSH BHUPESH KURMARSHETH***
2. ***UNION OF INDIA v. MANUDEV ARYA***
3. ***Dr. S.A.HAKEEM v. NTR UNIVERSITY OF HEALTH SCIENCES***
4. ***STATE OF OU.P. v. UNIVERSITY COLLEGE PENSIONERS' ASSN.***
5. ***M/S.CHINGLEPU BOTTLERS v. M/S.MAJESTIC BOTTLING CO.***
6. ***SECRETARY, BOARD OF INTERMEDIATE EDUCATION v. S.SRIVALLI***
7. ***G.SATISH KUMAR v. CONVENOR, ECET***
8. ***GOA, DAMAN & DIU BOARD OF SECONDARY EDUCATION v. HEMA LAAD***
9. ***VICTORY PUBLISHERS v. GOVERNMENT OF A.P.***
10. ***V.PREETHAM v. SECRETARY, BOARD OF INTERMEDIATE EDUCATION***
11. ***IRFAN AHMAD v. GOVERNMENT OF A.P.***
12. ***MD. SALEEM v. P.RAMA RAO***

Before adverting to the rival contentions, it is appropriate to note the statutory functions of the Board under the Act. Under Section 3 of the Act Government can establish the Board for the purposes of the Act, namely, A.P. Board of Intermediate Education, which consists of several officers of Education Department. The powers

of the Board including formulation of schemes for the conduct of intermediate examination and to admit candidates to such examination and to take all steps ancillary thereto. (Section 9 (iv) & (vi)). The Board has got statutory power under the Act to evaluate a scheme of valuation and revaluation and conduct public examination for the intermediate course. In order to conduct its business and for the discharge of its statutory functions it acts on its resolution under the Act and can appoint devices for discharge of such functions. Rules and regulations framed under the Act provide for appointment of Standing Committee on Administration, Finance, and Academic Affairs and Subject Committee, Revaluation Committee and Malpractice Committee and Screening Committee etc. Out of all these Committees, Standing Committee on Academic Affairs advice the Board on academic matters which will have the power to recommend to the Board regarding the scheme of Intermediate Examination and admission of candidates to such examination, as already noted. In discharge of its functions Six Member Committee was constituted to study the issue of revaluation of answer sheets in the place of the revaluation introduced in the year 2001-2002. The said Committee submitted its recommendations for revaluation provided alternative remedies to be worked out keeping in view the lacuna in the system, which was prevalent. The Standing Committee on Academic Affairs examined the recommendations of the Six Member Committee and made its suggestions, which was approved by the Board for providing partial revaluation, as already referred.

I do not consider it relevant to refer several decisions cited above for the same proposition. Moreover, the issue involved appears to be clearly covered by the decision in Maharashtra State Board of Secondary Education case (3 supra). However, this Court noticed some of them, which appears to be relevant for deciding the issue involved in this batch of writ petitions.

In the case of ***Kanpur University*** (1 supra) the Supreme Court was dealing with a case about the errors committed by the paper setter while indicating the correct answer to a question set by him, the students who correctly answer that question cannot be failed for the reason that though their answer is correct, but it is not in accordance with the answer supplied by the paper setter to the University as the correct answer in the Medical entrance examination. When the failed students approached the High Court, the High Court after referring the standings instructions

on the subject and taking the opinion of the experts in the subject accepted the contention of the students that there is marked difference in English and Hindi versions in certain questions, and given answer is not correct to some questions. Under those circumstances the High Court granted relief to the petitioners. On appeal filed by the University, the Supreme Court observed that when the future of the students is involved, if the key answers were kept in secret, the remedy would have been worse than the disease because so many students would have had to suffer the injustice in silence. The publication of the key answer has unraveled an unhappy state of affairs to which the University and the Government must find a solution. Their sense of fairness in publishing the key answer has given them an opportunity to have a closer look at the examinations, which they conduct. What has failed is not computer, but the human system. If the key answer is doubt, we would have unquestionably preferred the key answer. But if the matter is beyond the realm of doubt, it would be unfair to penalize the students for not giving an answer. Holding so dismissed the appeal. The reliance of the above decisions by petitioners is misplaced to the facts of these cases.

This Court in ***Ravi Kiran's*** case (2 supra) considered the answer sheets of the students and satisfied that the answers in the answer sheets tallied with the answers given in the key and felt that the teacher, who initially examined the answer sheet of the students did not evaluate it properly and also failed to compare with the key. Under those circumstances this Court after going through the answer sheets held that the answer sheets of the students are not properly valued, and thus played with the life of the young boy and accordingly allowed the writ appeal and directed the respondent-Board to get the answer sheet evaluated by an independent teacher/examiner and award marks to the appellant by taking the mean if the marks awarded by the second teacher, but the same is not an issue in these cases.

In Maharashtra State Board's case (3 supra) the Supreme Court considered the validity of Regulation 104 (3) of Maharashtra Secondary and Higher Education Boards Regulations, which prohibits inspection or disclosure of answer papers and other documents which was struck down by the High Court. While allowing the appeal the Supreme Court held as under:

> "….In our opinion, this approach made by the High Court was not correct or proper because the question whether a particular piece of delegated legislation — whether a rule or regulation or other type of statutory

> instrument — is in excess of the power of subordinate legislation conferred on the delegate has to be determined with reference only to the specific provisions contained in the relevant statute conferring the power to make the rule, regulation, etc. and also the object and purpose of the Act as can be gathered from the various provisions of the enactment. It would be wholly wrong for the Court to substitute its own opinion for that of the Legislature or its delegate as to what principle or policy would best serve the objects and purposes of the Act and to sit in judgment over the wisdom and effectiveness or otherwise of the policy laid down by the regulation-making body and declare a regulation to be ultra vires merely on the ground that, in the view of the Court, the impugned provisions will not help to serve the object and purpose of the Act. So long as the body entrusted with the task of framing the rules or regulations acts within the scope of the authority conferred on it, in the sense that the rules or regulations made by it have a rational nexus with the object and purpose of the statute, the court should not concern itself with the wisdom or efficaciousness of such rules or regulations. It is exclusively within the province of the Legislature and its delegate to determine, as a matter of policy, how the provisions of the statute can best be implemented and what measures, substantive as well as procedural would have to be incorporated in the rules or regulations for the efficacious achievement of the objects and purposes of the Act. It is not for the Court to examine the merits or demerits of such a policy because its scrutiny has to be limited to the question as to whether the impugned regulations fall within the scope of the regulation-making power conferred on the delegate by the statute…"

The Supreme Court further held as under:

> "The Court cannot sit in judgment over the wisdom of the policy evolved by the Legislature and the subordinate regulation-making body. It may be a wise policy which will fully effectuate the purpose of the enactment or it may be lacking in effectiveness and hence calling for revision and improvement. But any drawbacks in the policy incorporated in a rule or regulation will not render it ultra vires and the Court cannot strike it down on the ground that, in its opinion, it is not a wise or prudent policy, but is even a foolish one, and that it will not really serve to effectuate the purposes of the Act."

In the case of ***S.A.HAKEEM*** (5 supra) this Court held as under:

> "It is well settled that a Court of judicial review should respect the decisions of academic bodies. All decisions of the Universities and other academic bodies are not justiciable except the decisions which require interpretation of provisions of law and where the academic bodies do not adhere to rule of law…"

In ***VICTORY PUBLISHER'S*** case (11 supra) the publishers who publishes the

various kinds books including the text books prescribed by the Board of Intermediate for the Intermediate Course filed the writ petition aggrieved by the action of the Board in not prescribing the entries/text books pursuant to its own notification dated 21-12-2000. This Court after elaborately dealing with the mater held that the Subject Committee itself is required to be constituted in accordance with Rule 5 of the Rules and it should place its recommendations before the Standing Committee on academic affairs. Once the exclusive jurisdiction is conferred upon the Standing Committee on academic affairs to consider and accept the recommendations of the Subject Committee whatever may have been done by the Review committee and the Subject Committee are only recommendatory in nature. The matter is required to be dealt with by the Standing Committee on academic affairs and it has to make its own recommendations to the Board after considering the recommendations of the Subject Committee regarding syllabus and curriculum.

Sri Hariharan, learned Counsel for the petitioner in W.P.No.9684 of 2004, taken me through answer script. It is noticed that valuer has awarded liberal marks to questions 1 (a) and 2(b) in spite of several mistakes as pointed out by learned senior counsel for respondent. If the paper is ordered to be revalued, there is every likelihood of reducing marks.

In view of the same, I see sufficient force in the submission made by the learned standing counsel for the Intermediate Board that the policy adopted by the Board is to see that it would not cause hardship to the petitioners and to see that the initial marks obtained will be in tact and only revalue the answers where no marks are awarded or zero marks are awarded. In the process, if some marks are awarded, candidate will have the benefit of getting more marks and avoid the risk of getting lesser marks appears to be rational. Once the Academic Council discuss the suggestions made by the Committee appointed on the said subject made its recommendations which was approved by the Board after obtaining the advice of the academicians, this Court cannot substitute its views in its place. It cannot be expected that all the valuers will award same marks to a candidate. To avoid arbitrariness, the Board has formulated the scheme of revaluation and necessary guidelines and instructions were given to the examiners drafted for revaluation how the marks have to be awarded.

The validity or otherwise of the policy decision taken by the Board has to be

adjudged only in the light of 3 principles laid down by the Supreme Court in the case of PARITOSH BHUPESH KUMARSHETH (3 supra), namely,

> 1.whether the provisions of such regulations fall within the scope and ambit of the power conferred by the statute on the delegate;
>
> 2. whether the rules/regulations framed by the delegate are to any extent inconsistent with the provisions of the parent enactment and lastly
>
> 3. whether they infringe any of the fundamental rights or other restrictions or limitations imposed by the Constitution.

It is well settled that the absence of reasons in the order rejecting the request in the nature of proceedings themselves cannot be said to be an infirmity. Since the policy decision taken do not provide revaluation of the entire paper, much of the grievance sought to be vindicated by the petitioners seems to be merely borne out some baseless assumptions and incorrect understanding of events, which took place on their own personal perception of the same carried away also more by the grievance in not being favoured with due recognition of their so called entitlements, much to be carried away by the opinion expressed by the teachers under whom they have studied. The grievance in this regard sought to be further justified by adopting one or the other circumstances in a manner to suit their own stand rather than viewing the relevant facts in their proper perspective or on an objective process of understanding in providing partial revaluation and the rationale behind it. Assumed grievance apart, it must be sufficiently substantiated to have firm or concrete basis on properly established facts and further proved to be well justified in law, for being countenanced by this Court in exercise of its powers of judicial review. As has often been reiterated by the Court's judicial review is permissible only to the extent of finding whether the process in reaching the decision has been observed correctly and not the decision itself, as such.

In view of the same, in the absence of any statutory or vested right in the petitioners, they cannot seek revaluation of entire answer script de hors, which provided under the policy decision taken by the Board for such revaluation. If the plea of the petitioners that revaluation should be in its entirety is accepted, it is a unending process and no finality and sanctity to the examination system itself. As and when it is pointed by the Committee of Examiners who revalued the answer scripts comes to the conclusion that in awarding marks to a particular candidate on revaluation found

to be not properly done and the marks were not awarded as per the guidelines provided, even for the correct answers and which shocks the consciousness of such committee which revalued the answer scripts recommends to the Board for revaluation in its entirety, it is open for the Board to adopt necessary policy guidelines for revaluation of all the answer scripts in exceptional cases. In such cases, it is for the Board to formulate its policy for the future academic year that what remedial steps have to be taken in such cases. But the same should be left to the discretion of the Board. This Court cannot express any opinion nor can lay down any guidelines substituting to that of policy adopted by the Board.

In view of the same, I see no infirmity in the policy adopted by the Board for having partial revaluation of the answer scripts and the writ petitions are accordingly dismissed. There shall be no order as to costs.

A.GOPAL REDDY,J

01-09-2004

Murthy

To

1. The Commissioner and Secretary, Board of Intermediate Education, A.P., Nampally, Hyderabad.

2. Two CCs to the Government Pleader for Higher Education, High Court Buildings, Hydetrabad.

3. Two CD copies.